

## Senate Bill No. 1945

### CHAPTER 490

An act to amend Sections 12950 and 12960 of the Government Code, relating to discrimination.

[Approved by Governor September 11, 2002. Filed with Secretary of State September 12, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1945, Kuehl. Discrimination.

(1) Under existing provisions of the California Fair Employment and Housing Act, a person filing a complaint for an unlawful practice with the Department of Fair Employment and Housing is required to file the complaint within one year, except that the period for filing may be extended as prescribed, under specified circumstances. Existing law provides that all persons within the jurisdiction of this state have the right to be free from any violence or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. A complaint for a violation of this provision may be filed with the Department of Fair Employment and Housing.

This bill would extend the time for filing a complaint with the department for an alleged violation of this prohibition for a period of time, not to exceed one year from the date the person aggrieved by the alleged violation becomes aware of a liable person, but in no case for a period of time that exceeds 3 years from the date of the alleged violation if during that period the person allegedly aggrieved by an alleged violation is unaware of the identity of any person liable for the alleged violation.

(2) The bill would also make other technical, conforming changes to existing law.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12950 of the Government Code is amended to read:

12950. In addition to employer responsibilities set forth in subdivisions (j) and (k) of Section 12940 and in rules adopted by the department and the commission, every employer shall act to ensure a

workplace free of sexual harassment by implementing the following minimum requirements:

(a) The department shall amend its current poster on discrimination in employment to include information relating to the illegality of sexual harassment. This amended poster shall be distributed to employers when the supply of the current poster is exhausted. One copy of the amended poster shall be provided by the department to an employer upon request. The amended poster shall be available at each office of the department, and shall be mailed if the request includes a self-addressed envelope with postage affixed. Multiple copies of the amended poster shall be obtained through the Office of Documents and Publications of the Department of General Services. Each employer shall post the amended poster in a prominent and accessible location in the workplace.

(b) Each employer shall obtain from the department its information sheet on sexual harassment, which the department shall make available to employers for reproduction and distribution to employees. One copy of the information sheet shall be provided by the department to an employer upon request. The information sheets shall be available at each office of the department, and shall be mailed if the request includes a self-addressed envelope with postage affixed. Multiple copies of the information sheet shall be obtained through the Office of Documents and Publications of the Department of General Services. Each employer shall distribute this information sheet to its employees, unless the employer provides equivalent information to its employees that contains, at a minimum, components on the following:

- (1) The illegality of sexual harassment.
- (2) The definition of sexual harassment under applicable state and federal law.
- (3) A description of sexual harassment, utilizing examples.
- (4) The internal complaint process of the employer available to the employee.
- (5) The legal remedies and complaint process available through the department and the commission.
- (6) Directions on how to contact the department and the commission.
- (7) The protection against retaliation provided by Section 7287.8 of Title 2 of the California Code of Regulations for opposing the practices prohibited by this article or for filing a complaint with, or otherwise participating in an investigation, proceeding, or hearing conducted by, the department or the commission.

(c) The information sheet or information required to be distributed to employees pursuant to subdivision (b) shall be delivered in a manner that ensures distribution to each employee, such as including the information sheet or information with an employee's pay.



(d) Notwithstanding subdivisions (j) and (k) of Section 12940, a claim that the information sheet or information required to be distributed pursuant to this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer's compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(e) If an employer violates the requirements of this section, the commission shall issue an order requiring the employer to comply with these requirements.

SEC. 2. Section 12960 of the Government Code is amended to read:

12960. (a) The provisions of this article govern the procedure for the prevention and elimination of practices made unlawful pursuant to Article 1 (commencing with Section 12940) of Chapter 6.

(b) Any person claiming to be aggrieved by an alleged unlawful practice may file with the department a verified complaint, in writing, that shall state the name and address of the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice complained of, and that shall set forth the particulars thereof and contain other information as may be required by the department. The director or his or her authorized representative may in like manner, on his or her own motion, make, sign, and file a complaint.

(c) Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this part may file with the department a verified complaint asking for assistance by conciliation or other remedial action.

(d) No complaint may be filed after the expiration of one year from the date upon which the alleged unlawful practice or refusal to cooperate occurred, except that this period may be extended as follows:

(1) For a period of time not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by an unlawful practice first obtained knowledge of the facts of the alleged unlawful practice after the expiration of one year from the date of their occurrence.

(2) For a period of time not to exceed one year following a rebutted presumption of the identity of the person's employer under Section 12928, in order to allow a person allegedly aggrieved by an unlawful practice to make a substitute identification of the actual employer.

(3) For a period of time, not to exceed one year from the date the person aggrieved by an alleged violation of Section 51.7 of the Civil Code becomes aware of the identity of a person liable for the alleged violation, but in no case exceeding three years from the date of the



alleged violation if during that period the aggrieved person is unaware of the identity of any person liable for the alleged violation.

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